

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VICTOR TENORIO CONTRERAS AND
SOVEIDA TENORIO

v.

RICK POLSTON

CIVIL ACTION NO. 5:19-CV-1202

DEMAND FOR JURY TRIAL

DEFENDANT RICK POLSTON'S
NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS:

Pursuant to 28 U.S.C. §§ 1332 and 1441(a), Defendant, Rick Polston hereby removes this action to the United States District Court for the Western District of Texas from the 218th Judicial District Court of Atascosa County, Texas, stating as follows:

1. This is an action of a civil nature in which the District Courts of the United States have been given original jurisdiction because the parties to the suit have complete diversity of citizenship. It arises under the laws of the United States as provided in 28 U.S.C. § 1332 because this action is between citizens of different states.

2. Under the provisions of 28 U.S.C. § 1441, et seq., the right exists to remove this cause from the District Court of Atascosa County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, which embraces the place where this action is pending. In their Original Petition, filed on August 19, 2019, Plaintiffs, Victor Tenorio Contreras and Soveida Tenorio ("Plaintiffs") allege personal injuries arising out of a motor vehicle accident and seek "monetary relief" exceeding \$200,000.00 but not more than \$1,000,000.00.

3. Under 28 U.S.C. § 1332, Defendants have a right to remove this case to federal court, because the parties have complete diversity of citizenship. Specifically, Plaintiff's Original Petition alleges that Plaintiffs are citizens of Atascosa County, Texas. Plaintiff's Original Petition further states that Defendant is also a resident of Atascosa County, Texas. Defendant Rick Polston is a resident of Arkansas. Defendant Polston's address is as follows: 1127 E. Boswell Street, Batesville, Arkansas 75201-3536. Plaintiff's citation, reflecting service upon Defendant Polston, reflects the Defendant was served on September 12, 2019 at 6:20 p.m. at the address listed above. Please see Citation and Officer's Return attached as Exhibit "1" and incorporated herein by reference.

4. This action was originally filed on August 19, 2019, and Citation and Original Petition were served on Defendant Rick Polston on September 12, 2019.

5. Prior to the date on which Defendant was required to file this Notice of Removal, an answer to Plaintiff's Original Petition was filed with the 218th Judicial District Court of Atascosa County, Texas, pursuant to the Texas Rules of Civil Procedure.

6. Pursuant to the provisions of 28 U.S.C. § 1446, Defendants attach hereto, as Exhibit "2," and incorporate herein by reference, a copy of Plaintiff's Original Petition filed in the 218th Judicial District Court in Atascosa County, Texas on August 19, 2019, bearing Cause No. 19-08-0766-CVA.

7. Pursuant to the provisions of 28 U.S.C. § 1446, Defendants attach hereto, as Exhibit "3," and incorporate herein by reference, a copy of Defendant's Original Answer filed in this cause on October 4, 2019.

8. Pursuant to the provisions of 28 U.S.C. § 1446, Defendants attach hereto, as Exhibit "4," and incorporate herein by reference, a copy of the Atascosa County District Court Civil Case Summary.

9. According to these premises, Defendant desires and is entitled to have this cause removed from the District Court of Atascosa County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division, such being the district where such suit is pending.

10. Notice of the filing of this Notice of Removal will be given to all parties as required by law.

11. A true copy of this Notice of Removal will be filed with the Clerk of the District Court of Bexar County, Texas, as provided by law.

WHEREFORE, PREMISES CONSIDERED, Defendant, Rick Polston prays that this action be removed to this Court and this Court assume jurisdiction of this action and henceforth, this action be placed on the docket of this Court for further proceedings, the same as though this action had originally been instituted in this Court.

Respectfully submitted,

**THORNTON, BIECHLIN,
REYNOLDS & GUERRA, L.C.**
One International Centre
100 N.E. Loop 410, Suite 500
San Antonio, TX 78216-4741
Telephone: (210) 581-0289
Facsimile: (210) 525-0666
Email: spage@thorntonfirm.com
Email: jfinley@thorntonfirm.com

By: /s/ R. Sean Page
R. Sean Page
Federal ID No. 00784713

State Bar No. 00784713
Jeffrey K. Finley
Federal ID No. 24062484
State Bar No. 24062484

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing instrument has been properly delivered pursuant to the Federal Rules of Civil Procedure via CM/ECF, on the 8th day of October, 2019, to the following counsel of record:

David G. Gutierrez
THE LAW FIRM OF OSCAR A. GARZA, PLLC
6243 Interstate 10, Ste. 970
San Antonio, Texas 78201

/s/ R. Sean Page
R. Sean Page